

Senate Bill No. 1050

Passed the Senate September 7, 2005

Secretary of the Senate

Passed the Assembly August 31, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 15342 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1050, Bowen. Elections: write-in candidates.

Existing law establishes the requirements that must be met in order for votes for a write-in candidate to be properly counted, certified, and included in the official returns of an election.

This bill would define the circumstances under which a write-in candidate may seek a hand tally of the votes for that candidate and would describe how the ballots in a hand tally shall be counted.

By imposing additional requirements on local elections officials with respect to hand tallies of election ballots, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 15342 of the Elections Code is amended to read:

15342. Any name written upon a ballot for a qualified write-in candidate, including a reasonable facsimile of the spelling of a name, shall be counted for the office, if it is written in the blank space provided and voted as specified below:

(a) For voting systems in which write-in spaces appear directly below the list of candidates for that office and provide a voting space, no write-in vote shall be counted unless the voting space next to the write-in space is marked or slotted as directed in the voting instructions, except as provided in subdivision (f).

(b) For voting systems in which write-in spaces appear separately from the list of candidates for that office and do not provide a voting space, the name of the write-in candidate, if otherwise qualified, shall be counted if it is written in the manner described in the voting instructions.

(c) The use of pressure-sensitive stickers, glued stamps, or any other device not provided for in the voting procedures for the voting systems approved by the Secretary of State to indicate the name of the write-in candidate are not valid, and a name indicated by these methods shall not be counted.

(d) Neither a vote cast for a candidate whose name appears on the ballot nor a vote cast for a write-in candidate shall be counted if the voter has indicated, by a combination of marking and writing, a choice of more names than there are candidates to be nominated or elected to the office.

(e) All valid write-in votes shall be tabulated and certified to the elections official on forms provided for this purpose, and the write-in votes shall be added to the results of the count of the ballots at the counting place and be included in the official returns for the precinct.

(f) After tallying all eligible votes, but prior to completion of the official canvass and the issuance of the certified statement of the results pursuant to Chapter 4 (commencing with Section 15300) of Division 15, in an election that uses a voting system described in subdivision (a), if the elections official determines that the number of votes cast for a qualified write-in candidate combined with the total number of undervotes cast for that same office is equal to or greater than the total number of votes cast for the candidate receiving the greatest number of votes for that office, the elections official shall hand tally the votes for the write-in candidate for that office at the request of the write-in candidate. In the case of an office for which the voter may vote for more than one candidate, a qualified write-in candidate may request a hand tally pursuant to this subdivision if the elections official determines that the number of votes cast for the write-in candidate combined with the total number of undervotes cast for that same office is equal to or greater than the total number of votes cast for the candidate receiving the least number of votes that would be sufficient in order to be elected. In the event of a hand tally performed pursuant to this subdivision, each ballot

shall be counted if the intent of the voter can be determined, regardless of whether the voter has marked or slotted the voting space. The results of a hand tally conducted pursuant to this subdivision shall be included in the official canvass. For the purposes of this subdivision, “undervote” means an office appearing on the ballot for which the voter failed to cast any vote, or failed to cast the maximum number of votes permitted, that is detected by an electronic, mechanical, or other vote-tabulating device. Notwithstanding Section 15624, a qualified write-in candidate shall not be responsible for the costs of a hand tally requested pursuant to this subdivision.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2005

Governor